

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Ronald L. Harris,
Petitioner-Appellant.

v.

City of Cedar Rapids Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-101-0887
Parcel No. 14094-80007-00000

On May 22, 2012, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Ronald L. Harris was self-represented and requested a hearing; however he did not appear. City Attorney Jim Flitz is legal counsel for the City of Cedar Rapids Board of Review. Deputy Assessor Tom Lee represented the Board at hearing and participated by phone. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Ronald L. Harris is the owner of a residential, single-family property located at 2920 Oakland Road NE, Cedar Rapids, Iowa. The property is a two-story home built in 1927, and has 1608 square feet of total living area with a full, unfinished basement. The home has an enclosed porch and open porch. There is also a 320 square-foot detached garage on the site, which was built in 1953. The site is a 0.275 acres.

Harris protested to the City of Cedar Rapids Board of Review regarding the 2011 assessment of \$121,783, which was allocated as follows: \$13,685 in land value and \$108,098 in improvement value. His claim was based on the following grounds: 1) that the assessment was not equitable as compared

with the assessments of other like property under Iowa Code section 441.37(1)(a); 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b); and 3) that there has been a change downward in the value since the last assessment under sections 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as separate claim. He asserted the correct value was \$62,500.

The Board of Review granted the protest, in part, reducing the total assessed value to \$97,857, allocated \$13,685 to land value, and \$84,172 to improvement value.

Harris then appealed to this Board and appears to reassert only his claim of over-assessment. Harris had listed five properties and provided their property record cards as equity comparables to the Board of Review; however, no other information or analysis was presented to this Board to support an equity claim.

On his appeal to this Board, Harris asserts his property can not be assessed for more than the purchase price of the property according to Iowa Code section 441.21. He states he purchased the property in February 2011 for \$62,500.

The Board of Review notes the subject property was purchased in February 2011 as the result of a foreclosure action on an FHA-insured mortgage. Harris purchased the property from the Secretary of Housing and Urban Development (HUD). We also note the property record card indicates the subject sold in July 2009 and again in September 2009 for \$133,425, each time. In arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value under Iowa Code section 441.21(1)(b). Because the subject's sale was the result of a foreclosure, its sales

price would not be considered a normal transaction. Harris did not provide any additional evidence that would indicate the subject property's sale price is representative of the market in spite of its foreclosure status and should reflect market value to either Board.

The Board of Review obtained an appraisal report from HUD, with an effective date of December 15, 2010. The report was completed by Shawna Neal, Neal Appraisal Services, Inc., West Des Moines, Iowa. The report was prepared for HUD for the purposes of providing "the 'as-is' value for marketing and bidding purposes."

Neal developed the sales comparison and cost approaches to value; and gave most weight to the sales comparison approach. She considered three sales all located within 1.20 miles from the subject property that sold in 2010. All sales offer similar overall style, age, size and amenities. We note that all three sales were superior in condition as compared to the subject property and required between \$20,000 to \$30,000 downward adjustments. An active listing was also included and was adjusted downward \$15,000 for condition. After adjustments, the three sales indicate a value range of \$99,170 to \$104,212. The listing indicates a value of \$106,577.

We note there appear to be many discrepancies or inconsistencies in Neal's appraisal. On page two in report, Neal indicates the "as is" value of the subject, based on the sales comparison approach is \$95,000. Neal states in her report that the sales comparison approach is the most reliable. However, she concludes a final opinion of value of \$95,000. We note this conclusion is outside of the range of value determined by the adjusted sales and listing and closer to the indication of value by the cost approach, which resulted in a value of \$95,425.

Additionally, we note a repair and maintenance addendum on page twelve also indicates an "as is" value of \$105,000. It is possible this conclusion was intended to be an "as repaired" conclusion. Neal determined the total indicated cost of repairs is \$4550. It remains unclear, however, how Neal

arrived at a value conclusion of \$105,000 for either an “as is” or more likely “as repaired” value conclusion. Regardless, it is unknown if these repairs were done as of the assessment date in question, January 1, 2011, and we therefore give it no consideration.

Because Neal’s conclusions differ within the report being either outside of the range of value indicated by the sales or unexplained and due to the inconsistencies within the report, we give it no consideration.

The Board of Review also provided and adjusted four comparable sales. After adjustments, the sales indicated a value of \$62.85 to \$86.37 per square foot. We note the lower end of the range is set by the oldest sale, which occurred in July 2008. The other three sales were in 2009 and 2011. The indicated range of value from the 2009 to 2011 sales is \$73.86 to \$86.37 per square foot. The subjects assessed value per square foot of \$60.86 is below the range of the most recent sales. The four comparables listed by the Board of Review are all two-story homes with similar year-built and size. However, while the sales were purportedly adjusted, there is no analysis of what elements were adjusted or if the adjustments are reasonable. Therefore, we give this information limited consideration.

Based on the foregoing, we find the preponderance of evidence does not demonstrate the subject property is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the

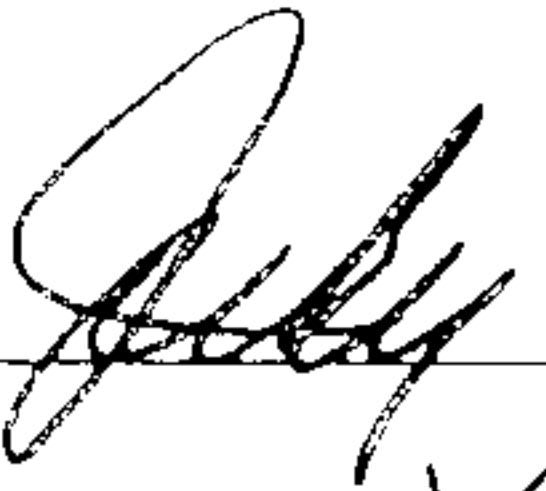
property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vec, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

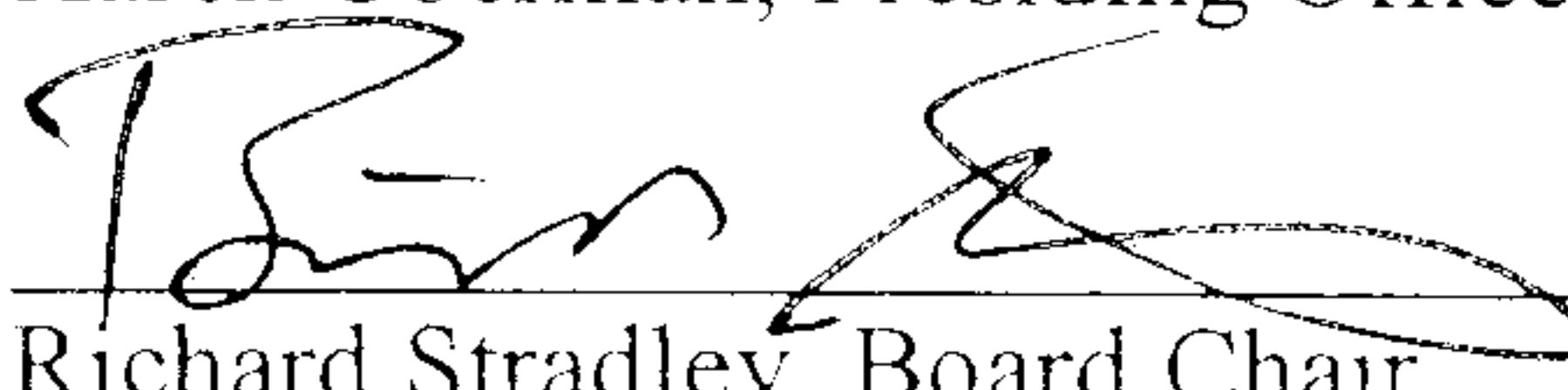
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

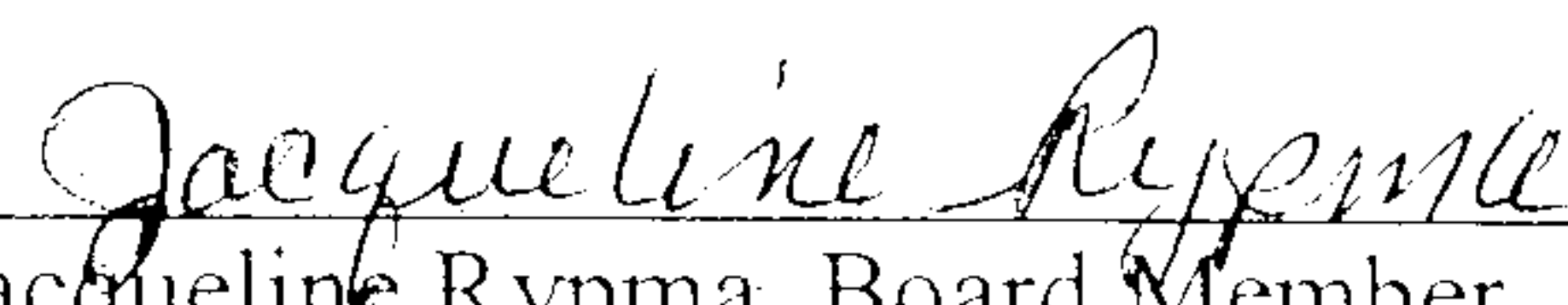
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Harris did not offer any evidence of the fair market value of his property to support this claim other than asserting \$62,500 was the fair market value because it was the purchase price in February 2011. Because the property was purchased as the result of a foreclosure, this transaction is abnormal under Iowa Code section 441.21 unless the distorting factor is adjusted.

THE APPEAL BOARD ORDERS the assessment of Ronald L. Harris's property located at 2920 Oakland Road NE, Cedar Rapids, Iowa, of \$97,857, as of January 1, 2011, set by the City of Cedar Rapids Board of Review, is affirmed.

Dated this 20 day of July, 2012


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

Ronald L. Harris
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APPELLANT

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-20</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	